

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JUANA HERNANDEZ, AS)
ADMINISTRATRIX OF THE)
ESTATE OF DANNY NICACIO)
and ARMANDO MAISONET,)
Plaintiffs)

v.)

CIVIL ACTION NO. 05-40141-FDS

SCOTTSDALE INSURANCE)
COMPANY and UTICA)
MUTUAL INSURANCE)
COMPANY,)
Defendants.)

ASSENTED TO MOTION FOR LEAVE AND MOTION FOR AN
EXTENSION OF TIME TO FILE REPLY BRIEF IN SUPPORT
OF DEFENDANTS' JOINT MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12
(b)(6), OR TO STAY ACTION IF NOT DISMISSED IN ITS ENTIRETY

Pursuant to the provisions of Local Rule 7.1(B)(3), Defendants Scottsdale Insurance Company ("Scottsdale") and Utica Mutual Insurance Company ("Utica") respectfully request leave of Court to file a reply brief ("Reply") to *Plaintiffs' Opposition to Defendants' Joint Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6) or Stay Action if Not Dismissed in its Entirety, and Request for Remand* ("Opposition"). Defendants submit that this Reply is warranted to address the arguments made by Plaintiffs in their Opposition.

Defendants also move for an extension of time until November 4, 2005 to file the Reply.

Plaintiffs assent to this motion.

Respectfully submitted,

Scottsdale Insurance Company,
By Its Attorneys,

Utica Mutual Insurance Company,
By Its Attorney,

/s/ Caryn L. Daum
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/s/ James T. Scamby
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Dated: October 27, 2005

CERTIFICATE OF SERVICE

I, Caryn L. Daum, hereby certify that a true and accurate copy of the foregoing document was served by first-class mail, postage prepaid, on this 27th day of October, 2005, upon:

Héctor E. Piñeiro, Esq.
Law Office of Héctor E. Piñeiro
807 Main Street
Worcester, MA 01610

/s/ Caryn L. Daum
Caryn L. Daum